IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

RP.No. 32 OF 2007(H)

AGAINST THE JUDGEMENT/ORDER IN WPC.495/2007 Dated 04/01/2007

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PETITIONER

P.K.ABDUL RAHEEM,
1/349, FORT KOCHI, KOCHI-11.

BY ADV. SRI.V.V.ASOKAN
SMT.S.LAKSHMY
SRI.N.SASI

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
VIDYUTHI BHAVAN, PATTOM, TRIVANDRUM,
REPRESENTED BY ITS SECRETARY.

2. EXECUTIVE ENGINEER, KSEB,
MATTANCHERRY.

3. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, KSEB, FORT KOCHI.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 8.1.2007, THE COURT ON THE SAME DAY, PASSED THE FOLLOWING:

P.R. RAMAN, J.

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R.P. 32/2007 IN W.P.(C) . 495 OF 2007

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DATED THIS, THE 8TH DAY OF JANUARY, 2007

J U D G M E N T

WP(C) 495/2007 was dismissed as withdrawn. Subsequently, petitioner filed W.P.(C) 690/2007 seeking to quash Exts. P4, P4(a) and P6 and a direction to restore the service connection to his premises and also for disposal of Ext.P5 appeal. Since WP(C) 495/2007 was dismissed as withdrawn, he has filed a review petition also seeking review of the judgment dismissing the writ petition as 'withdrawn'.

2. According to the petitioner, if the fact that electric supply was disconnected on 3.1.2007, and the circumstances under which the cheque for payment of the dues was dishonored was properly addressed, there would not have been any occasion to withdraw the writ petition and hence he seeks to review the order.

3. After hearing both sides, the review petition is allowed and the writ petition was re-heard.

4. According to the petitioner, he has purchased Building No. 1/349 at Fort Kochi with appurtenant land thereon from the successors in interest

of one deceased Augustine Joseph. There was an electric connection to the said building with Consumer No. 5564000089 8 with energy charges payable under tariff LT VII A. Petitioner is employed abroad and the premises was being utilized as a home stay center from December, 2006. On 22.11.2006, based on an inspection conducted by the Kerala State Electricity Board, it was found that petitioner has consumed excess load and a notice was issued demanding payment of charges for such excess energy. Subsequently, yet another inspection was conducted by the Anti Power Theft Squad. Theft was detected and a show cause notice was issued along with a provisional demand to to the tune of Rs. 2,79,959/- to avert disconnection. Petitioner gave a cheque for Rs. 2,84,469/- which was eventually dishonoured. According to the petitioner, the cheque was dated 28.12.2006 and he had specifically instructed not to present the same before 4.1.2007. But the same was presented on 3.1.2007 as a result of which the same was dishonoured. Obviously, petitioner could have known about the dishonour of the cheque only later. Therefore, he should have produced the details of his accounts in the bank to show that at least on 4.1.2007 there was sufficient cash to honour the cheque. No materials are however placed to appreciate this contention.

5. However petitioner having issued the cheque, now cannot turn

round and say that he is not liable to pay the amount. He pleads that he may be given installment facility to repay the amount which itself evidences the fact that there was no sufficient amount in his bank account to honour the cheque. However, taking a lenient view, there will be a direction that in case petitioner pays an amount of Rs. 1,00,000/- (One lakh) power shall be restored. The balance amount shall be paid in nine equal monthly installments commencing from 15.3.2007 and on the same date of the succeeding months. However, if the petitioner pays Rs. 1,00,000/- (One lakh) as aforesaid and gets reconnection and subsequently, commits default in payment of the balance amount, it will be open to the respondent to proceed in accordance with law. The payment of the amount will not stand in the way of the appellate authority in considering the appeal in accordance with law.

The writ petition is disposed of as above.

P.R. RAMAN,
JUDGE.

knc/-